IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO.75 OF 2007

With

CIVIL APPLICATION NO.949 OF 2007

In

SECOND APPEAL NO.75 OF 2007

Shri Babu Ismail Patel & Anr. : Appellants

(Orig.Plaintiffs)

V/s.

Shri Suleman Usman Mapari & Ors. : Respondents

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Mr.R.M.Haridas holding for Mr.P.N.Joshi for the appellants.

Mr.Anilkumar K. Patil for the respondents.

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**CORAM : S.A.BOBDE, J.**

DATE : SEPTEMBER 07, 2007.

**P.C**.

1. This Second Appeal is preferred against concurrent findings of both the Courts below that the appellants-plaintiffs have not become owners by adverse possession of the suit land. They have been held not entitled to an injunction restraining the defendants from interfering with their possession. The suit for possession of certain lands has also been dismissed.

2. The lower Appellate Court framed four points for determination. It came to the conclusion that the appellants are not in possession of any area more than 75 acres from each gat and, hence, there is no question of granting an injunction as prayed for. As regards the point of adverse possession, the lower appellate Court has observed that there is no pleading by the plaintiffs as to the time when they came to possession of the said portion and asserted their title, hostile to the true owner. On the contrary, the appellate Court has found on evidence that the defendant no.3 has purchased the land under registered sale deed on 5.12.1981 and, therefore, the appellants' claim for adverse possession has no basis whatsoever. The findings are based on cogent evidence and the appeal does not raise any substantial question of law.

3. In the result, the Second Appeal is dismissed.

4. In view of the dismissal of the Second Appeal, the Civil Application does not survive and the same stands disposed of.

S.A. BOBDE, J.